

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

TUBBS ET AL.

v.

C R BARD INC. ET AL.

§
§
§
§
§
§

Case No. 2:15-md-2641-DGC

**THIS FILING RELATES TO:
2:17-cv-02926-PHX-DCG**

PLAINTIFF'S UNOPPOSED MOTION FOR LEAVE TO AMEND COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiffs file this Unopposed Motion, pursuant to Rule 15(a)(2), Fed. R. Civ. P., and as required in the Scheduling Order, for Leave to Amend their Complaint, because:

1. This is a products liability case in which Plaintiffs seek damages for injuries allegedly sustained as a result of being implanted with a defective and unreasonably dangerous Inferior Vena Cava ("IVC") filter manufactured by Defendants.

2. Plaintiffs' counsel has learned that the name of spousal Plaintiff, Diane Tubbs, is misspelled on the previously filed short form complaint.

3. Plaintiffs seek leave to amend their complaint, filed as an attachment, as Plaintiff's "Third Amended Master Short Form Complaint for Damages for Individual Claims and Demand for Jury Trial," to correct the spelling of DIANE Tubbs to DIANA Tubbs.

4. "A party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires." Rule 15(a)(2), Fed. R. Civ. P.; *Foman v. Davis*, 371 U.S. 178, 182 (1962). Defendants have provided written consent, attached to the contemporaneously filed (as an attachment) Third Amended Short Form Complaint, as Exhibit A.

5. No new causes of action are being introduced, and no substantive facts have changed. No depositions have been taken. Therefore, no prejudice will come to any party by allowing Plaintiffs to amend their Complaint.

WHEREFORE, Plaintiffs pray that this Motion be granted, that Plaintiffs' Third Amended Master Short Form Complaint for Damages for Individual Claims and Demand for Jury Trial be deemed as filed, on the date of filing with this Motion, upon the Court's signed Order, and for such other appropriate relief.

Respectfully Submitted,
FERRER, POIROT, & WANSBROUGH

By: /s/John T. Kirtley, III
John T. Kirtley, III
Texas Bar No. 11534050
2603 Oak Lawn Avenue, Suite 300
Dallas, Texas 75219-9109
jkirtley@lawyerworks.com
(Asst. molvera@lawyerworks.com)
(214) 521-4412
Fax (214) 526-6026
Attorney-in charge for Plaintiff

Certificate of Conference

Counsel for Plaintiff/Movant has communicated with Counsel for Defendants/Respondents to resolve the matters presented in this Motion. Counsel for Defendants stated he is Unopposed to same and has provided written consent to this proposed amendment.

/s/John T. Kirtley, III
John T. Kirtley, III

Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing instrument has been provided to all counsel of record in this cause via ECF and/or any other method authorized by the Federal Rules of Civil Procedure, on this the 14th day of September, 2017.

/s/John T. Kirtley, III
John T. Kirtley, III